

Mail Stop Interference  
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Paper 10  
Filed: 20 July 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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RICHARD W. **ARNOLD**, WELDON BEARDAIN,  
DANIEL W. PREVEDEL, DONALD E. RILEY  
and LESTER L. WILSON  
Junior Party  
(Application 09/164,580),

v.

CURTIS NATHAN **POTTER**  
Senior Party  
(Patent 6,028,437).

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Patent Interference No. 105,752 (SCM)  
(Technology Center 2800)

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Before SALLY GARDNER LANE, RICHARD E. SCHAFER and SALLY C.  
MEDLEY, *Administrative Patent Judges*.

MEDLEY, *Administrative Patent Judge*.

**Judgment – Request for Adverse – Bd. R 127(b)**

1       Senior party Potter has been given several opportunities to participate  
2 in the interference. Potter has not filed any papers. On July 19, 2010, Board  
3 personnel Sonja Desperth had a telephone conference call with counsel for  
4 Potter, Jim Bushman, who represented that Potter's real party in interest, IP  
5 Bewertungs AG, will not file any papers in the interference and that they  
6 understand that failure to act will be construed by the Board as a request for  
7 adverse judgment.

8       Potter's representation that it will not participate in the interference is  
9 construed as an abandonment of the contest under Bd R. 127(b)(4), which in  
10 turn is construed as a request for adverse judgment. The request is  
11 **GRANTED.**

12       Accordingly, it is

13       **ORDERED** that judgment is entered against Potter for Count 1  
14 (Paper 1 at 4);

15       **FURTHER ORDERED** that claims 1-11, corresponding to  
16 Count 1, of Potter's involved Patent 6,028,437 are **CANCELLED**,  
17 35 U.S.C. 135 (a);

18       **FURTHER ORDERED** that the parties shall note the  
19 requirements of 35 U.S.C. § 135(c) and Bd. R. 205; and

20       **FURTHER ORDERED** that a copy of this judgment be  
21 entered in the administrative records of the involved Arnold Application  
22 09/164,580 and Potter Patent 6,028,437.

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